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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/440,260	11/15/1999	ARTHUR JOST	GEN-067	2733

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EXAMINER
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KOENIG, ANDREW Y

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 03/31/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/440,260

**Applicant(s)**

JOST ET AL.

**Examiner**

Andrew Y Koenig

**Art Unit**

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4 & 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 7-13, 16-18, 20-22, and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,574,495 to Caporizzo.

Regarding claims 1, 11, and 20, Caporizzo teaches a cable television system which assesses the noise in the channels and notifies the headend of problems (abstract). Caporizzo teaches a headend (claimed system controller), a population of terminals, and a plurality of upstream and downstream plants (fig. 1). Furthermore, the system of Caporizzo can locate set top terminals within a system by maintaining a system topology of devices (col. 6, ll. 4-13). Caporizzo teaches sending a message containing bit error rate (BER) information to the headend (col. 5, ll. 37-39), which reads on sending a first message to the system controller from a set top terminal. Furthermore, by using the CATV network topology, the system can determine the upstream plant and the downstream plant associated with the terminal (col. 6, ll. 4-13). The examiner notes that the identification is 217784, where 2 is the trunk number, 1 is the line extender and 7784 is the set top terminal. Accordingly, the location of the set top terminal within the system comprises an identification of the upstream and downstream plants.

Regarding claims 2, 12, and 21, Caporizzo teaches transmitting a request message from the headend (claimed system controller) to a set top terminal (col. 5, ll. 4-11), accordingly, the set top terminal responds to the request message (col. 5, ll. 37-48).

Regarding claims 3, 13, and 22, Caporizzo teaches authorizing access to specific services and channels (col. 3, ll. 3-5), which reads on assigning attributes for set top terminals. The examiner notes that by assigning characteristics to a particular set top terminal, the set top terminal has a location. Accordingly, Caporizzo teaches, "assigning attributes for said set top terminal based on said location of said set top terminal" as claimed.

Regarding claims 7 and 16, Caporizzo teaches a demand from the set top terminal (col. 5, ll. 4-11), which reads on a set top terminal transmitting a message without receiving a request message from the controller.

Regarding claims 8 and 17, Caporizzo is teaches a subscriber demand initiating the data accumulation procedure, which in turn transmits the first message (col. 5, ll. 5-8).

Regarding claims 9 and 18, Caporizzo teaches identifying a trunk and line extender along with the set top terminal in order to identify the a group of malfunctioning devices (col. 6, ll. 5-13).

Regarding claims 10 and 19, Caporizzo teaches using a phone line to send the information the headend (claimed controller) (col. 5, ll. 43-48). By completing this action, the system of Caporizzo clearly must call use a telephone network that in turn reads on the claimed upstream plant.

Regarding claim 24, Caporizzo teaches providing physical and logical topology information for the system based on the location information of the terminal (col. 6, 4-13).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4, 5, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,574,495 to Caporizzo in view of U.S. Patent 6,463,588 to Jenkins et al. and U.S. Patent 6,425,132 to Chappell.

Regarding claims 4 and 14, Caporizzo teaches associating attributes to the set top terminals, but is silent on associating attributes with each upstream and downstream plant. Jenkins teaches associating a status for end user devices in the downstream data path (col. 2, ll. 22-37, col. 2-3, ll. 56-6). In the upstream direction, Chappell teaches identifying a node, with a node identifier (col. 5-6, ll. 65-1). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Caporizzo by associating attributes with both the downstream and upstream plants as taught by Jenkins and Chappell in order to analyze the network and improve the efficiency of the system.

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Regarding claim 5, Caporizzo is silent on associating attributes for the terminal based on the upstream path. Official Notice is taken that associating attributes for the terminal based on the upstream path is well known. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Caporizzo by associating attributes based on the upstream path in order to adjust the power, timing and other transmission characteristics for the set top terminal thereby transmitting data more efficiently.

5. Claims 6 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,574,495 to Caporizzo in view of U.S. Patent 5,563,883 to Cheng.

Regarding claims 6 and 15, Caporizzo teaches polling from both the headend or the set top terminal either simultaneously or to addressed terminals (col. 5, ll. 4-11). By polling a particular set top terminal, the terminal clearly has a location. However, Caporizzo is silent on teaching selecting terminals to minimize collisions. Cheng teaches grouping terminals in order to minimize collisions (col. 11, ll. 9-14). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Caporizzo by grouping terminals to minimize collisions as taught by Cheng in order to provide a more reliable upstream data path.

6. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,574,495 to Caporizzo.

Regarding claim 23, Caporizzo teaches a set top terminal demanding when the terminal has been added to the system. Official Notice is taken that performing an action once connected to the network is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art to perform a demand of Caporizzo once connected to the network in order to identify the device to the network.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

8. U.S. Patent 6,272,150 to Hrastar et al. teaches a topology map for cable modems in a cable system (col. 3, ll. 30-49) and DHCP (col. 6, ll. 28-32), the examiner notes that DHCP teaches a self-identification scheme once connected to a network in order to determine an address.

9. U.S. Patent 5,606,725 to Hart teaches altering upstream power gains depending on the number of errors (abstract).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Y Koenig whose telephone number is (703) 306-0399. The examiner can normally be reached on M-Th (7:30 - 6:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703) 305-4380. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Art Unit: 2611

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.



ANDREW FAILE  
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ayk  
March 24, 2003